

**§ 26.211 Fatigue assessments.**

(a) Licensees shall ensure that fatigue assessments are conducted under the following conditions:

(1) For cause. In addition to any other test or determination of fitness that may be required under §§ 26.31(c) and 26.77, a fatigue assessment must be conducted in response to an observed condition of impaired individual alertness creating a reasonable suspicion that an individual is not fit to safely and competently perform his or her duties, except if the condition is observed during an individual's break period. If the observed condition is impaired alertness with no other behaviors or physical conditions creating a reasonable suspicion of possible substance abuse, then the licensee need only conduct a fatigue assessment. If the licensee has reason to believe that the observed condition is not due to fatigue, the licensee need not conduct a fatigue assessment;

(2) Self-declaration. A fatigue assessment must be conducted in response to an individual's self-declaration to his or her supervisor that he or she is not fit to safely and competently perform his or her duties for any part of a working tour because of fatigue, except if, following the self-declaration, the licensee permits or requires the individual to take a rest break of at least 10 hours before the individual returns to duty;

(3) Post-event. A fatigue assessment must be conducted in response to events requiring post-event drug and alcohol testing as specified in § 26.31(c). Licensees may not delay necessary medical treatment in order to conduct a fatigue assessment; and

(4) Followup. If a fatigue assessment was conducted for cause or in response to a self-declaration, and the licensee returns the individual to duty following a break of less than 10 hours in duration, the licensee shall reassess the individual for fatigue as well as the need to implement controls and conditions before permitting the individual to resume performing any duties.

(b) Only supervisors and FFD program personnel who are trained under §§ 26.29 and 26.203(c) may conduct a fatigue assessment. The fatigue assessment must be conducted face to face

with the individual whose alertness may be impaired.

(1) In the case of a fatigue assessment conducted for cause, the individual who observed the condition of impaired alertness may not conduct the fatigue assessment.

(2) In the case of a post-event fatigue assessment, the individual who conducts the fatigue assessment may not have—

(i) Performed or directed (on site) the work activities during which the event occurred;

(ii) Performed, within 24 hours before the event occurred, a fatigue assessment of the individuals who were performing or directing (on site) the work activities during which the event occurred; and

(iii) Evaluated or approved a waiver of the limits specified in § 26.205(d)(1) through (d)(5)(i) for any of the individuals who were performing or directing (on site) the work activities during which the event occurred, if the event occurred while such individuals were performing work under that waiver.

(c) A fatigue assessment must provide the information necessary for management decisions and actions in response to the circumstance that initiated the assessment.

(1) At a minimum, the fatigue assessment must address the following factors:

(i) Acute fatigue;

(ii) Cumulative fatigue; and

(iii) Circadian variations in alertness and performance.

(2) Individuals shall provide complete and accurate information that may be required by the licensee to address the factors listed in paragraph (c)(1) of this section. Licensees shall limit any inquiries to obtaining from the subject individual only the personal information that may be necessary to assess the factors listed in paragraph (c)(1) of this section.

(d) The licensee may not conclude that fatigue has not or will not degrade the individual's ability to safely and competently perform his or her duties solely on the basis that the individual's work hours have not exceeded any of the limits specified in § 26.205(d)(1) or that the individual has had the minimum breaks required in § 26.205(d)(2) or

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minimum days off required in § 26.205(d)(3) through (d)(5), as applicable.

(e) Following a fatigue assessment, the licensee shall determine and implement the controls and conditions, if any, that are necessary to permit the individual to resume performing duties for the licensee, including the need for a break.

(f) Licensees shall document the results of any fatigue assessments conducted, the circumstances that necessitated the fatigue assessment, and any controls and conditions that were implemented.

(g) Licensees shall also prepare an annual summary for each nuclear power plant site of instances of fatigue assessments that were conducted during the previous calendar year for any individual identified in § 26.4(a) through (c). Each summary must include—

(1) The conditions under which each fatigue assessment was conducted (i.e., self-declaration, for cause, post-event, followup);

(2) A statement of whether or not the individual was working on outage activities at the time of the self-declaration or condition resulting in the fatigue assessment;

(3) The category of duties the individual was performing, if the individual was performing the duties described in § 26.4(a)(1) through (a)(5) at the time of the self-declaration or condition resulting in the fatigue assessment; and

(4) The management actions, if any, resulting from each fatigue assessment.

### Subpart J [Reserved]

### Subpart K—FFD Program for Construction

#### § 26.401 General.

(a) At the licensee's or other entity's discretion, a licensee or other entity in § 26.3(c) may establish, implement, and maintain an FFD program that meets the requirements of this subpart to apply to the individuals specified in § 26.4(f). If a licensee or other entity in § 26.3(c) does not elect to implement an FFD program that meets the requirements of this subpart, the individuals

specified in § 26.4(f) shall be subject to an FFD program that meets the requirements of subparts A through H, N, and O of this part.

(b) Entities who intend to implement an FFD program under this subpart shall submit a description of the FFD program and its implementation as part of the license, permit, or limited work authorization application.

(c) Nothing in this subpart prohibits the licensees and other entities in § 26.3(c) from subjecting the individuals in § 26.4(f) to an FFD program that meets all of the requirements of this part or FFD program elements that meet all of the applicable requirements of this part.

#### § 26.403 Written policy and procedures.

(a) Licensees and other entities who implement an FFD program under this subpart shall ensure that a clear, concise, written FFD policy statement is provided to individuals who are subject to the program. The policy statement must be written in sufficient detail to provide affected individuals with information on what is expected of them and what consequences may result from a lack of adherence to the policy.

(b) Licensees and other entities shall develop, implement, and maintain written procedures that address the following topics:

(1) The methods and techniques to be used in testing for drugs and alcohol, including procedures for protecting the privacy of an individual who provides a specimen, procedures for protecting the integrity of the specimen, and procedures used to ensure that the test results are valid and attributable to the correct individual;

(2) The immediate and followup actions that will be taken, and the procedures to be used, in those cases in which individuals who are subject to the FFD program are determined to have—

(i) Been involved in the use, sale, or possession of illegal drugs;

(ii) Consumed alcohol to excess before or while constructing or directing the construction of safety- or security-related SSCs, as determined by a test that accurately measures BAC;